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PATENT
Docket No. SJO920030101US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Donald M. Connelly Jr. et al.	
Serial No.:	10/828,784	
Filed:	April 21, 2004	Group Art
For:	STORAGE DEVICE ENCLOSURE	Unit: 2835
Examiner:	Corey M. Broussard	

REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

The Appellants filed a timely Notice of Appeal on October 20, 2005 in response to the Final Office Action mailed July 20, 2005 and the Advisory Action mailed September 22, 2005. The Appellants appealed the rejection of and objections to pending Claims 1, 3-11, and 13-20. The Examiner responded by reopening prosecution using the same prior art in an Office Action mailed March 6, 2006. A Notice of Appeal reinstating the previous appeal was filed on June 6, 2006. A new Appeal Brief was filed on July 3, 2006. This reply brief is in response to an answer to the Appeal Brief on September 18, 2006 and is being filed under the provisions of 37 C.F.R. § 41.41.

1. REAL PARTY IN INTEREST

The real party in interest is the assignee, International Business Machines Corporation, Armonk, New York.

2. RELATED APPEALS AND INTERFERENCES

A Notice of Appeal for this application was timely filed on October 20, 2005. While the Appeal Brief was found persuasive, another Office Action was mailed on March 6, 2006 (hereinafter “Office Action”) reopening prosecution citing the same prior art with different grounds for rejection. There are no other related appeals, interferences, or judicial proceedings.

3. STATUS OF CLAIMS

The Examiner acknowledges that the statement of the status of the claims contained in the Appeal Brief is correct.

4. STATUS OF AMENDMENTS

The Examiner acknowledges that the statement of the status of the amendments contained in the Appeal Brief is correct.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The Examiner acknowledges that the statement of the summary of claimed subject matter contained in the Appeal Brief is correct.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner stated that the Appellants’ argument regarding an objection to drawings is not appealable. The Appellants maintain the grounds of rejection set forth in the Appeal Brief filed July 3, 2006.

7. CLAIMS APPENDIX

The Examiner acknowledges that the claims contained in the Appendix to the Appeal Brief are correct.

8. EVIDENCE RELIED UPON

The Appellants acknowledge that the patents cited are those cited in the Office Action mailed March 6, 2006.

9. GROUNDS OF REJECTION

The Appellants acknowledge that the grounds of rejection are the same as in the Office Action mailed March 6, 2006.

10. ARGUMENTS

1. Arguments concerning Claims 1, 9, and 18:

a. The Examiner makes several statements intended to counter the Appellants' arguments that Pavol, U.S. Pat. No. 6,445,587 (hereinafter "Pavol"), fails to teach a horizontally oriented storage device carrier. Examiner's Answer mailed September 18, 2006 (hereinafter "Answer") at pp. 14, 15. The Appellants reassert the argument that Pavol fails to teach a horizontally oriented storage device carrier. The Examiner first states that "the Appellant fails to give the claim terms their plain meaning. The terms 'horizontally' and 'vertically' are completely dependent upon a subjective perspective. The other claim terms do not fix the perspective and therefore allow for a broad interpretation. Using the reasoning applied in the rejections above, Pavol does in fact teach a vertically oriented mounting surface and a horizontally oriented storage carrier." Answer at p. 14. The Appellants continue to disagree.

The Appellants agree that perspective for the orientations of vertical and horizontal is not explicitly recited in Claims 1, 9, and 18. However, "[the] meaning of words used in a claim is not construed in a "lexicographical vacuum, but in the context of the specification and drawings." *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999). MPEP §2106. According to the Manual of Patent Examining Procedure, "Office personnel must rely on the applicant's disclosure to properly determine the meaning of terms used in the claims." MPEP § 2106. *Markman v. Westview Instruments*, 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir.) (*en banc*), *aff'd*, U.S. , 116 S. Ct. 1384

(1996). Consequently, the Appellants submit that such explicit recitation of perspective is not necessary. Furthermore, the perspective is implicit to one of ordinary skill in the art.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). *MPEP* §2143.03. The phrases “oriented vertically” and “horizontally oriented” must be given meaning as part of the examination. One of ordinary skill in the art recognizes that the mounting surface is vertical and storage device carrier is horizontal. Thus, one of ordinary skill in the art would readily deduce that the orientations are with respect to the orientation of the enclosure chassis. In other words, the enclosure chassis serves as proper perspective for the horizontal and vertical orientations, at least implicitly. Furthermore, the recitation of the enclosure chassis *first* in the claim provides explicit perspective and sufficient guidance to one of ordinary skill in the art for at least implicit orientation perspective.

One of skill in the art would clearly recognize that an enclosure chassis filled with storage devices is designed to fit in a computer equipment rack. Computer equipment racks are of a standard widths and depths. Designers of computer equipment and related hardware continually strive to increase the density of rack mounted equipment. Orientation of computer hardware is a key element in rack mounted equipment design. Horizontal or vertical mounting of hard disk drives is not arbitrary, but is a conscious structural decision. Changing from one orientation to another cannot be done without affecting rack space, thermodynamics, connector design, etc. Pavol teaches vertically oriented storage carriers in an enclosure chassis. Pavol at Fig. 1, col. 3, ll. 3-20. Pavol’s perspective of a vertically oriented storage device carrier is with respect to the enclosure chassis. Claim 1 of the Application clearly teaches a “horizontally oriented storage device carrier.” Claim 1’s perspective of a horizontally oriented storage device carrier is also with respect to the enclosure chassis. The orientations are not arbitrary.

b. The Examiner also states that “Pavol explicitly contradicts the Appellant’s argument of how one of ordinary skill in the art would interpret the claim terms. Pavol, at column 5 lines 6-15, states: ‘Here, these resilient layers 126 provide **horizontal positioning of the drive module 106** as well as additional shock and vibration damping.’ (emphasis added) The Appellant argues at page 16 of the Appeal Brief filed July 3, 2006 in length on how one of

ordinary skill would interpret horizontal and vertical orientation; and how Pavol teaches a vertical, not horizontal oriented storage device carrier. This disparity between the prior art of record and the Appellant's arguments evidence the fact that the concept of horizontal and vertical are relative within the art. The Examiner is properly applying the knowledge of the worker in the art to broadly interpret the claim language." Answer at pp. 14-15. The Appellants disagree.

The Examiner misuses the language in Pavol. Orientation of a component is not the same as the use of horizontal and vertical to describe directions of positioning, movement, etc. of the component. Pavol at column 5, lines 6-15 apply to Figure 3 of Pavol. *See* Pavol at col. 5, ll. 4-15. Figure 3 of Pavol again clearly shows a storage device and carrier vertically oriented. *Id.* at Fig. 3. The language of column 5, lines 6-15 describes the vertical walls 136 of enclosure chassis and that the walls provide support to the device carrier to fix the position of the device carrier to prevent movement to the right or left from the perspective of Figure 3. The horizontal positioning in Pavol refers to a horizontal axis relative to the Figure, not the storage device carrier. Pavol teaches a vertically oriented storage device carrier that depends on the four walls of the enclosure chassis, top, bottom, and sides, to prevent movement of the storage device carrier. *Id.* at Fig. 3, col. 4, l. 60 to col. 5, l. 31 ("Another benefit of resilient layers 126 is that they engage (through the cover layers 128) a large surface area of the media drive chassis 118. Ideally, resilient layers 126 cover 100% of the drive module's top and bottom surface areas (and side surface areas in the alternative embodiments).").

In contrast, the invention of Claim 1 is for a horizontally oriented storage device carrier supported by the vertical walls of the enclosure chassis through a receiver, mounted to the vertical walls. *See* Application at Claim 1, Fig. 1, ¶ 29. The language describing Figure 3 of Pavol teaches away from the concept of a horizontally oriented device carrier supported from the vertical walls by a receiver by teaching contact on all four walls of the enclosure chassis as a means of support for a storage device carrier. Use of the words "horizontal" and "vertical" by Pavol to teach close contact with a storage device carrier does not contradict Pavol's teaching of a vertically oriented storage device carrier. The language and figures of Pavol clearly show a vertically oriented device carrier. Pavol at Figs. 1, 3, col. 4, l. 60 to col. 5, l. 31.

c. The Examiner states that "a rotation of 90° of the prior art structure has no effect on the structure itself, and is merely an aesthetic choice. (see MPEP 2144.04[I.I]) Lacking some

criticality, a change of orientation would have no mechanical function and therefore cannot be relied upon to patentably distinguish the claimed invention from the prior art.” Answer at p. 15. The Appellants disagree. As discussed above, choice of horizontal or vertical orientation has many implications, such as rack space, heat dissipation, connector design, etc. Orientation is not arbitrary for rack mounted equipment.

d. The Examiner states that “[t]he Examiner does not ignore the limitation of ‘secured to the mounting surface and configured to retain a first storage device carrier substantially perpendicular to the mounting surface’. See the rejection of Claim 1 above, and of Claims 9 and 18 containing similar limitations. It is apparent, from at least Fig. 4 of Anderson, that the storage device carrier is substantially perpendicular to the mounting surface.” Answer at p. 15. The Examiner cites Pavol, not Anderson, as teaching the limitation of “secured to the mounting surface and configured to retain a first storage device carrier substantially perpendicular to the mounting surface.” The Examiner states in the Grounds of Rejection section that “Pavol teaches . . . a mounting surface (interior surface of mounting bay 108 outer surface 128) oriented vertically (the side walls of the bay are oriented vertically, see Fig. 3) . . . the mounting surface configured to receive a horizontally oriented storage device carrier (106, the top and bottom of the carrier are oriented with the horizon, see Fig. 3) . . .” Answer at p. 5. Pavol teaches a vertically oriented storage device carrier with close contact to four walls of an enclosure chassis. Pavol at Fig. 3, col. 4, l. 60 to col. 5, l. 31. Anderson also teaches a vertically mounted device carrier. Anderson, U.S. Patent No. 6,209,842 (hereinafter “Anderson”) at Figs. 1, 3, col. 3, ll. 25-33.

2. Arguments concerning withdrawal of rejection under 35 U.S.C. § 103(a)

a. The Examiner argues in the Answer that the arguments in the Non-Final Office Action filed March 6, 2006 (hereinafter “Office Action”) constitute new grounds for rejection. Answer at p. 16. The Appellants disagree. As stated in the Appeal Brief, filed July 3, 2006 (hereinafter “Appeal Brief 2”), in the Office Action, which re-opened prosecution after a first appeal, the Examiner merely recycles the previous arguments using *exactly the same prior art* as the first round of prosecution prior to the first appeal.

b. See section 1.b above.

c. See section 1 above.

d. The Examiner states that Anderson provides motivation to combine at column 3, lines 53-59. Answer at p. 16. The Appellants disagree. The citation in Anderson discusses rails to support the storage device carrier. Anderson at col. 3, ll. 53-59. In general, Anderson teaches mounting clips for a storage device carrier with dampening. *See* Anderson at Abstract; *generally*. Anderson does not teach, suggest, or disclose the *missing* elements of Claim 1. *See generally id.* For example, Anderson does not teach, discuss, or suggest a vertical mounting surface of an enclosure chassis having a viscoelectric layer nor a horizontally oriented storage device carrier. *Id.*

Pavol includes an enclosure chassis with walls that have a dampening element. Pavol at Fig. 3, col. 5, ll. 4-30. Pavol does not teach, disclose, or suggest the *missing* elements of Claim 1. For example, Pavol does not teach, discuss, or suggest a horizontally oriented storage device carrier or a receiver secured to a mounting surface that is perpendicular to a horizontally oriented storage device carrier. *See generally id.* In fact, Pavol instead teaches away from such a receiver by teaching an enclosure chassis that must be in close contact with a storage device carrier on four walls. *See id.* at Fig. 2, col. 4-30.

There must be some suggestion or motivation to *modify* the references or to combine the teachings. MPEP § 2142. Column 3, lines 53-59 of Anderson does not provide motivation for any element of Claim 1 that is lacking in Anderson. The Appellants assert that the Examiner has failed to make out a *prima facie* case of obviousness because there is no motivation taught in either Pavol or Anderson to modify or combine the references. Only through impermissible hindsight using the Appellants' application could one of skill in the art read Pavol and Anderson and combine the references.

3. Arguments with respect to Claims 3-8, 10, 11, 13-17, 19, and 20:

a. See sections 1 and 2 above for reasons why the independent claims are patentable over Pavol and Anderson.

b. The Examiner states that the void described by the interface shelf is not claimed and it is therefore impermissible to read this limitation into the claims. Answer at pp. 16, 17. The Appellants disagree.

Claims 3, 11, and 18 describe an interface shelf that isolates storage bays above the shelf from storage bays below the shelf. The interface shelf described in the specification and shown

in the drawings include a void. Application at Fig. 1, ¶ 31. The Appellants are entitled to be their own lexicographers and the Application defines an interface shelf 122 as one that “provides a void between adjacent drive bays 114 to reduce vibration propagation to the adjacent drive bays 114.” *Id.* at ¶ 31. The language of Claims 3, 11, and 18 use specifically the term “interface shelf” and further functionally describe an interface shelf that isolates storage bays above the interface shelf from storage bays below the interface shelf. Pavol and Anderson do not describe a partition with any isolation properties that would comply with the limitations of the interface shelf recited in Claims 3, 11, and 18.

4. Claims 22 and 26: See arguments above concerning the interface shelf.

5. Claims 7 and 15: See arguments above regarding Claims 1, 9, and 18 in addition to the arguments in Appeal Brief 2.

6. Claims 18 and 28-30:

a. The Appellants acknowledge that Anderson was not the subject of the Examiner’s rejection of Claims 18 and 28-30.

b. As stated above, Pavol fails to teach a horizontally oriented storage carrier device, a receiver supporting the storage device carrier mounted on a vertical surface perpendicular to the storage device carrier, and an interface shelf with vibration isolation. *See generally* Pavol.

c. Bell does not teach a horizontally oriented storage device carrier, a vertical mounting surface with a viscoelastic layer, and an interface shelf with isolation properties. *See generally* Bell. Pavol does not describe a storage device carrier with a bezel and related key. *See generally* Pavol. Both Pavol and Bell lack any teaching, discussion, or suggestion regarding the missing elements to motivate one of skill in the art to modify or combine the references. The discussion regarding elements that are already contained in a reference do not provide motivation to take the extra step necessary to combine the reference with another reference with different features. Pavol and Bell lack motivation to combine.

7. Claims 19 and 20.

a. See discussion above regarding Claim 18 above.

b. See discussion above in section 6.c. regarding Claim 18.

c. The Examiner states that Anderson does not teach away from a clip-on spring and that a clip-on spring is admitted prior art. Answer at p. 18. Regardless of whether a clip-on spring is

prior art, the relevant question is whether one of skill in the art would be motivated to combine the references. Anderson clearly teaches a bolt-on spring. Anderson at col. 4, ll. 64-66. Anderson never mentions clip-on springs. Anderson also does not teach a horizontally oriented storage device carrier, a mounting surface with a viscoelastic layer, an interface shelf with isolation characteristics or a storage device carrier with a bezel. There is no teaching, discussion, or suggestion in Anderson relating to these missing elements that would provide any motivation to combine with Pavol, Polch, or Bell. Only through impermissible hindsight can one combine *four* references to obtain the limitations of Claims 19 and 20.

8. Claims 21, 24, and 25. See discussion above regarding Claims 3 and 11.
9. Claim 27. See discussion above regarding Claims 1, 9, and 18.

SUMMARY

In view of the foregoing, each of the claims on appeal has been improperly rejected because the enablement and indefiniteness rejections were improper and the Examiner has not properly established a *prima facie* case of anticipation or obviousness for Claims 1, 3-11, and 13-30. The Appellants submit that the foregoing arguments establish the novelty and non-obviousness of the claims of the present application and that the claims are enabled and not indefinite. Therefore, the Appellants respectfully request reversal of the Examiner's rejections under 35 U.S.C. §§ 112, 102(b), and 103(a) and allowance of pending Claims 1, 3-11, and 13-30. Accordingly, the Appellants submit that Claims 1, 3-11, and 13-30 are patentable. The Appellants also submit that the amendments to Claims 13 and 14 should be entered.

Respectfully submitted,

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11. CLAIMS APPENDIX

The claims involved in the appeal, namely Claims 1, 3-11, and 13-30, are listed below.

1. An enclosure for storing at least one storage device, comprising:
an enclosure chassis;
a mounting surface oriented vertically and coupled to the enclosure chassis
to form one wall of a drive bay, the mounting surface configured to receive a
horizontally oriented storage device carrier, the mounting surface having a first
layer and a second layer;
a viscoelastic layer disposed between the first layer and the second layer to
reduce vibration propagation throughout the mounting surface; and
a receiver secured to the mounting surface and configured to retain a first
storage device carrier substantially perpendicular to the mounting surface.
2. (Canceled).
3. The apparatus according to claim 1, further comprising an interface shelf oriented
horizontally and coupled to the enclosure chassis such that the interface shelf isolates horizontal
storage device bays above the interface shelf from storage device bays below the interface shelf.
4. The apparatus according to claim 1, further comprising a second receiver secured
to the mounting surface, the second receiver configured to retain a second storage device carrier.
5. The apparatus according to claim 4, wherein the mounting surface is configured
to receive the first storage device carrier on one side of the mounting surface and the second
storage device carrier on an opposite side of the mounting surface.

6. The apparatus according to claim 4, wherein the mounting surface is disposed to receive the first storage device carrier on one side of the mounting surface and the second storage device carrier on a same side of the mounting surface as the first storage device.

7. The apparatus according to claim 1, further comprising a viscoelastic layer disposed between a first layer and a second layer of the enclosure chassis.

8. The apparatus of claim 1, wherein the storage device is a disk drive.

9. A system for storing at least one storage device, comprising:
an enclosure chassis;

a mounting surface oriented vertically and coupled to the enclosure chassis to form one wall of a drive bay, the mounting surface having a first layer and a second layer and a viscoelastic layer disposed between the first layer and the second layer to reduce vibration propagation throughout the mounting surface;

a first and second storage device carrier configured to retain a storage device therein; and

a first and second receiver secured to the mounting surface, the receivers configured to receive and retain the storage device carriers substantially perpendicular to the mounting surface.

10. The system according to claim 9, wherein the storage device carrier further comprises a clip-on spring configured to resiliently couple the storage device carrier between the mounting surface and the receiver, the clip-on spring having first and second ends configured to engage one of the storage device carrier and the mounting surface.

11. The system according to claim 9, further comprising an interface shelf oriented horizontally and coupled to the enclosure chassis such that the interface shelf isolates horizontal storage device bays above the interface shelf from storage device bays below the interface shelf.

12. (Canceled).

13. The system according to claim 12, wherein the first storage device carrier is mounted on one side of the mounting surface, and the second storage device carrier is mounted to an opposite side of the mounting surface.

14. The system according to claim 12, wherein the first storage device carrier is mounted on one side of the mounting surface, and the second storage device carrier is mounted on the same side of the mounting surface.

15. The system according to claim 9, further comprising a viscoelastic layer disposed between a first layer and a second layer of the enclosure chassis.

16. The system of claim 9, wherein the storage device is a disk drive.

17. The system of claim 10, wherein the clip-on spring comprises at least three layers including at least one viscoelastic layer.

18. A system for storing at least one storage device, comprising:

an enclosure chassis;

a mounting surface oriented vertically and coupled to the enclosure chassis to form one wall of a drive bay, the mounting surface having a first layer and a second layer and a viscoelastic layer disposed between the first layer and the second layer to reduce vibration propagation throughout the mounting surface, the

mounting surface configured to receive and retain less than three storage device carriers substantially perpendicular to the mounting surface;

an interface shelf oriented horizontally and coupled to the enclosure chassis such that the interface shelf isolates horizontal storage device bays above the interface shelf from storage device bays below the interface shelf;

a storage device carrier including a bezel, the storage device carrier configured to retain a storage device therein, the storage device having a storage device interface; and

a key removably secured to at least one of two positions on the bezel, such that placement of the key into one of the two positions prevents the storage device interface from contacting an incompatible interface upon inserting the storage device carrier into the enclosure chassis.

19. The system of claim 18, further comprising at least one clip-on spring coupled to the storage device carrier, the clip-on spring configured to flexibly couple the storage device carrier to the mounting surface, the clip-on spring having first and second ends configured to engage one of the storage device carrier and the mounting surface.

20. The system of claim 19, wherein the clip-on spring comprises at least three layers including at least one viscoelastic layer.

21. A method for reducing vibration originating from at least one storage device, comprising the steps of:

providing an enclosure chassis configured to store at least one storage device;

providing a mounting surface oriented vertically and coupled to the enclosure chassis to form one wall of a drive bay, the mounting surface configured for receiving a horizontally oriented storage device carrier;

providing a first layer on the mounting surface;

providing a second layer on the mounting surface; and

providing a viscoelastic layer disposed between the first and second layer of the mounting surface for reducing vibration propagation throughout the mounting surface; and

providing an interface shelf oriented horizontally and coupled to the enclosure chassis such that the interface shelf isolates horizontal storage device bays above the interface shelf from storage device bays below the interface shelf.

22. The method according to claim 21, further comprising the steps of:

providing a first layer on the enclosure chassis;

providing a second layer on the enclosure chassis; and

providing a viscoelastic layer disposed between the first and second layer of the enclosure chassis, for reducing vibration propagation throughout the enclosure chassis.

23. The method according to claim 21, further comprising the steps of:

providing a storage device carrier for retaining a storage device;

securing a receiver to the mounting surface for receiving the storage device carrier; and

coupling at least one clip-on damped spring to the storage device carrier, for resiliently coupling the storage device carrier between a receiver formed in the mounting surface and the mounting surface.

24. An apparatus for reducing vibration originating from at least one storage device, comprising:

an enclosure chassis configured to store at least one storage device;

a mounting surface oriented vertically and coupled to the enclosure chassis to form one wall of a drive bay, the mounting surface configured to receive less than three horizontally oriented storage device carriers and having a damping means for damping the vibrational energy generated by the storage device and received by the mounting surface; and

an interface shelf oriented horizontally and coupled to the enclosure chassis such that the interface shelf isolates horizontal storage device bays above the interface shelf from storage device bays below the interface shelf.

25. The apparatus according to claim 24, wherein the damping means comprises a first layer, a second layer, and a viscoelastic layer between the first layer and the second layer.

26. The apparatus according to claim 25, wherein the viscoelastic layer is a damping adhesive.

27. The apparatus according to claim 24, further comprising a receiving means coupled to the mounting surface for receiving and retaining a storage device carrier perpendicular to the mounting surface.

28. The apparatus according to claim 24, wherein the storage device carrier comprises:

a bezel secured to the storage device carrier and configured to lock the drive carrier within the enclosure; and

a keying means, attached to the bezel, for preventing a storage device carrier, with one type of interface, from contacting an incompatible interface upon inserting the storage device carrier into the enclosure chassis.

29. The apparatus according to claim 28, wherein the keying means for keying a storage device carrier comprises a key removably secured to at least one of two positions on the bezel, and wherein the placement of the key into one of the two positions prevents the storage device carrier interface from contacting an incompatible interface upon inserting the storage device carrier into the enclosure chassis.

30. The apparatus according to claim 28, wherein the keying means for keying a storage device carrier comprises a groove in the enclosure chassis configured to receive the key.

11. EVIDENCE APPENDIX

There is no material to be included in the Evidence Appendix.

12. RELATED PROCEEDINGS APPENDIX

Appeal Brief for the present Application submitted on December 17, 2005.